

Legislature had organized and were ready to receive any communication he might have to make.

The Speaker appointed Messrs. Lewis, Bryan and Hardeman of Nacogdoches, to compose said committee, who retired, and after a short absence returned and reported duty performed, and that His Excellency, the Governor, returned for answer, that he would send in a communication in writing to both Houses of the Legislature at 10 o'clock to-morrow.

On motion of Mr. Sterne, the resolution of the extra session of the Legislature, subscribing for five copies of the newspapers printed in the City of Austin, for the use of the House, was rescinded.

Mr. Sterne offered the following resolution:

"*Resolved*, That the committee on printing be instructed to contract with one of the Printing establishments in this City, for one copy of their paper for each member of this House, as often as the same may be issued; provided, that said paper contains the journals of the House; and that the same be paid for out of the contingent fund of this House."

Mr. Clements moved to strike out "one," and insert "ten."

Mr. Tarrant moved to amend further, by inserting "provided that said papers be paid for by each member out of his private fund."

Which was accepted by Mr. Clements.

The question being then taken upon the adoption of the amendment as amended, it was rejected.

The question then recurring upon the adoption of the original resolution, was put and carried.

On motion of Mr. Hardeman of Nacogdoches, the House adjourned until half-past 9 o'clock to-morrow morning.

AUSTIN, Nov. 19, 1850.

House met pursuant to adjournment—roll called—quorum present.

Absentees: Messrs. Bee, Crump, Franklin, Gillet, Hendricks, Holland, Lewis, Shea, Shepard, Stewart, Tarrant, Williams and Winfield.

Journal of yesterday read.

Mr. Stapp moved to amend the journal by striking out in first

line, all after the word "pursuant," to the word "proclamation," and add the words "to the," in same line.

Upon which, the yeas and nays were called, and stood as follows:

Yeas—Messrs. Bryan, Clements, Fields, Lott, McKinney, Owen, Reynolds, Runnels, Stapp, Sterne, Tarrant, Taylor of Harrison, and Wigfall—13.

Nays—Messrs. Speaker, Bogart, Burney, Charlton, Cochran, Dickson, Hardeman of Nacogdoches, Hardeman of Travis, Hendricks, Johnson, Jowers, Lloyd, Patrick, Polk, Russell, Scott, Selman, Shaw, Shea, Smith of Red River, Speights, Taylor of Cass, and Wren—23.

So the motion to amend was lost.

The question then recurring upon the adoption of the journal, was put and carried.

Mr. Wren submitted the petition of the heirs of Samuel P. Sheffield, praying for a grant of land; referred to the committee on Private Land Claims.

Mr. McKinney submitted the petition of Luke A. Falvel, praying for a grant of land; referred to the committee on Private Land Claims.

Mr. Sterne submitted the petition of sundry citizens of Anderson county, praying for an alteration in the law relating to the disposition of school lands, (so far as relates to Anderson county,) which was referred to the committee on Education.

Mr. Patrick presented the petition of sundry citizens of Grimes, Walker and Leon counties, praying for the creation of a new county; and the petition of sundry citizens of the same counties, remonstrating against the creation of any new county or change of boundary; referred to committee on Counties and County Boundaries.

Mr. Patrick submitted the petition of sundry citizens of Leon county, praying for a change of the boundary line of Anderson county; referred to the committee on Counties and County Boundaries.

Mr. Patrick submitted the petition of Stokely D. Shoate, praying for relief; referred to the committee on Private Land Claims.

Mr. Cochran submitted the petition of sundry citizens of Denton county, praying the passage of a law better defining the boundary lines of the county of Denton; referred to the committee on Counties and County Boundaries.

A message was received from His Excellency, the Governor of the State, through his Private Secretary, Mr. Harrison, transmitting a communication in writing.

Mr. McKinney offered the following resolution, which was read and adopted:

“Resolved, That the Judiciary committee be requested to report a bill regulating the election of Judges of the Supreme Court, at their earliest convenience.”

Mr. Russell moved that a committee be appointed to invite the honorable Senate into the House of Representatives at half-past 10 o'clock to-day, to hear the reading of the message of His Excellency, the Governor, just transmitted to this House; carried.

The Speaker appointed Messrs. Russell, Sterne and Patrick to compose said committee.

A message was received from the Senate, informing the House that the Senate, had elected to fill vacancies which had occurred, Mr. James F. Johnson Assistant Secretary of the Senate, and Mr. Joseph Mangum Doorkeeper.

Mr. Fields introduced the following resolution, which was adopted:

“Resolved, That the committee on the Judiciary be instructed to enquire into the expediency of proposing to the people such an amendment to the Constitution as will give the district courts appellate jurisdiction over causes tried by Justices of the Peace, and report thereon as early as practicable.”

Mr. Fields moved that Mr. Wigfall be added to the committees on the Judiciary, State Affairs and Apportionment.

On motion of Mr. Lott, Mr. Taylor of Harrison, was added to the committees on Public Debt and Apportionment.

On motion of Mr. Williams, Mr. Hendricks was added to the committees on Public Debt, Public Printing and Privileges and Elections.

On motion of Mr. Burney, Mr. Patrick was added to the committees on Claims and Accounts, Public Lands and Apportionment.

On motion of Mr. Smith of Red River, Mr. Hendricks was added to the committee on the Judiciary.

On motion of Mr. Bryan, the House took a recess of 10 minutes.

Recess expired—House called to order—roll called—quorum present.

Pursuant to the invitation of the House, the honorable Senate now appeared, headed by their President, who was invited to a seat on the right of the Speaker, and Senators to seats prepared for them, when the roll of the two Houses, was respectively called by the Secretary of the Senate and Chief Clerk of the House, and a quorum of each found to be present.

The Speaker then announced to the two Houses that he had received from His Excellency, the Governor, a communication in writing, which His Excellency respectfully requested should be read to the two Houses of the Legislature; whereupon the Chief Clerk proceeded to read said communication as follows, to wit:

EXECUTIVE DEPARTMENT, }
Austin, November 18, 1850. }

To the Honorable, the

Senate and House of Representatives:

GENTLEMEN: — An event which was no doubt anticipated by you at the time of your recent adjournment, and which has since been officially communicated to me as the Executive of the State, has rendered it necessary for me to assemble you again in extraordinary session. And in greeting you once more as the representatives of the people, I have much pleasure in congratulating you on the improved auspices under which we meet for the tranquility and peace of the State, and the amicable adjustment of all matters of difference which were likely to arise with the Federal Government in respect to our territorial limits.

On the 27th of September last, I received by express from the Department of State at Washington City, a certified copy of two sections of an act passed by the Congress of the United States, "proposing to the State of Texas the establishment of her northern and western boundaries, and the relinquishment by said State of all territory claimed by her exterior to said boundaries, and of all her claim upon the United States, and to establish a Territorial Government for New Mexico."

You will perceive upon an examination of the propositions, thus submitted, (a copy of which is herewith laid before you,) that their acceptance by the State can be manifested only by an act of its Legislature; and to make the agreement "binding and obligatory upon the United States," it is necessary that your action shall be consummated on or before the first day of December next. The importance, therefore, of assembling you in extraordinary session at as early a day as was practicable after the receipt of the authenticated copy of the two sections of the act above referred to, was so obvious to my mind that I did not hesitate a moment to issue my proclamation convoking the Legislature on the third Monday in November: which proclamation, together with the bill as transmitted to me by the Hon. Secretary of State, I caused at once to be conveyed to every portion of the

State, with the utmost despatch, by special messengers employed for that purpose.

The short period intervening between the time when these propositions reached the Executive and that in which they were to be finally acted upon by the State Legislature, would have induced me to have chosen an earlier day for your meeting, had I believed it practicable to convey the information which the propositions contained to the remote counties of the State in time to have afforded our fellow-citizens an opportunity for forming and expressing their opinions on the important subjects to be presented to you, and thus enable you, as their immediate agents, to execute their will in your legislative action upon these subjects.— This, I trust, will satisfactorily explain to your Honorable body, and to our constituents, what may have appeared to some (inattentive to, or not cognizant of, the true attitude of the subject to which your deliberations are now to be directed,) as an unnecessary delay in the time appointed for your assembling together.

It is true that there is nothing in the act of Congress embracing the propositions herein referred to which required that they should be submitted to the people at all, and from the very limited period allowed for their acceptance or rejection, such a reference does not seem to have been contemplated—the Legislature alone being required to act upon them. This feature in the bill of Congress engaged the anxious attention of the Executive, and imposed a degree of responsibility, which was cheerfully and promptly met, I trust, in a manner satisfactory to the country. In a government and country like ours, where all political power emanates directly from the people, and where their representatives and agents are only employed for a limited period to carry out their will when fairly and clearly ascertained, I could not for a moment believe that a measure of such vast importance in every point of view as the dismemberment of their State and the disposition of a large portion of it for purposes not embraced in the original organization of their government, should be acted upon without affording to the people at large an opportunity for making known their opinions and expressing their wishes upon this measure. I therefore, simultaneously with the proclamation convening the Legislature, issued another, embracing therein, word for word and letter for letter, the authenticated copy received from the Hon. Daniel Webster, Secretary of State, and by which the Chief Justices of their respective counties throughout the State were directed to cause polls to be opened at the various precincts as early as could be done after giving the

necessary notices, and at which the citizens of the State could express their sentiments as to the propriety of accepting or rejecting the propositions submitted to the State, and make those sentiments known as a guide for the action of their Representatives when assembled in their Legislative Halls.

In adopting this course I am sustained by the confidence that the citizens of our State will accord to me the justice of having respected one of the great and essential principles asserted in our Constitution, which declares that all political power is inherent in the people, and I trust that there is no member in either branch of the Honorable Legislature who will suppose that I have had any desire to control or trammel him in the free exercise of his own judgment upon this grave and important subject.

Regarding the act which you are now called upon to perform as one requiring the exercise of high sovereign powers—powers that are rarely delegated by the people, except to agents expressly chosen with reference to them, and believing it to be the desire of every member of your honorable body to carry out in the purity and spirit of our republican institutions and form of government the wishes of those by whom they have been delegated. I did not believe that I could render you a more acceptable service than by adopting a practicable, and the only practicable mode which the time permitted, of causing those wishes to be made known to you before you should be called on to act finally on a question involving such high and vital interests to the State.

To the Chief Justices of the different counties was confided the discretion of appointing the day of receiving the votes upon the propositions submitted, and I was induced to adopt this arrangement from the very limited time (much too limited) which the bill allowed the State for consideration and action. It imposed a degree of responsibility that I was assured would be promptly met, and necessarily excited vigilance in the duty required, calculated to elicit a more general expression of the popular voice. These officers were directed to make their returns of the votes cast at the polls directly to the Legislature, through the presiding officer of each respective branch, and the Executive is not therefore officially informed of the precise character of those returns. From the unofficial returns, however, which have been received, there remains but little doubt that the people of the State who have rendered their votes have decided, by a majority, for the acceptance of the propositions made by Congress, much as they repudiate some of the features, regarding

them (as I have no doubt they did) as a peace offering, which the State might receive without any sacrifice of principle or honor, and as a means of restoring that harmony of feeling and action which it is so desirable should exist between the Federal and State Governments.

Entertaining then but little doubt from the favorable expression of the popular will that the propositions made by the General Government will be accepted by your honorable body, I respectfully suggest in this anticipation, that immediately after that matter shall have been decided, some provision be made for the communication of the result to the proper authorities at Washington city, with as little delay as practicable.

It may be also necessary that the Legislature should take into consideration other matters connected with this subject, and to adopt suitable action in reference to it.—The act of Congress submitting the propositions stipulates that the United States will pay to Texas ten millions of dollars in a stock bearing five per cent interest, redeemable in fourteen years, in consideration of her relinquishment of territory, and of all claim for liability of the debts of Texas, and for compensation or indemnity for such public revenues and property as were transferred to the United States at the time of annexation; but, that no more than five millions of the stock shall be issued until the creditors of the State holding bonds, or other certificates of stock of Texas, for which duties on imports were specially pledged, shall first file at the Treasury of the United States releases of all claim against the United States for or on account of said bonds or certificates."

It is to be regretted that Congress was not more specific in defining in this article, the mode of ascertaining and making known at the Federal Treasury the amount of debt for which this five millions of stock are to be retained, or had not deemed the relinquishment by the State of all liability on the part of the United States, as a sufficient guarantee; for it is manifest that the officers of the Treasury can never know except through the acts of the properly authorized officers of Texas, what is the amount of "bonds or stock" now due from the State, and "for which duties on imports were specially pledged," and consequently can never know from any other source when the time will arrive for issuing the stock on the retained five millions. Every creditor of the State embraced in this provision might file his relinquishment at the Treasury of the United States, and still the stock would not be issued, because under the law no mode has been prescribed for the ascertainment and establishment at the Treasury of the United States the actual amount of debt for which the retained five millions stock were pledged.

We ought not to presume, nor does the language of the act require us to do so, that the General Government intended to assume the right of adjusting the liabilities of Texas, incurred whilst she possessed a separate national character and of settling with her creditors upon the terms of such an adjustment, without reference to and respect for her own acknowledgment of the extent and validity of their claims. We can only suppose that the provision to which I have adverted, was incorporated in the law as a security on the part of the United States against all liability for the payment of such legal and acknowledged claims against Texas as her transferred revenue was pledged to protect. Texas alone, can determine what those claims are, and to Texas only can they look now for their adjustment. I would therefore, recommend to the Honorable Legislature the passage of a law (if the present existing laws on this subject are not deemed sufficient) which will authorize and require the Auditor and Comptroller to make out a tabular statement of the amount for the payment of which the Custom House revenue of the late Republic was pledged, and for which the State is now justly and equitably indebted; this statement to be filed at the Treasury of the United States as evidence; and the only evidence which the State can admit of her liabilities to such creditors—and in preparing this statement, I can perceive no reason why the rule hitherto adopted for ascertaining the actual value of the debt at the time it was created, and of allowing interest thereon, should not be observed.

It was the misfortune of Texas when laboring under a greatly depressed financial condition in her struggle for independence, to enter into contracts for different objects, supposed to be beneficial to her government, embracing stipulations therein, by which the Republic was obligated in the event of a failure to comply with the contracts at maturity, to issue to the contractors bonds double the amount called for in the original contract; some of these contracts were not cancelled at the time specified, and bonds of the government for double the amount actually expended, were issued and delivered to the parties concerned and the revenues of the Republic pledged for their redemption. These bonds now constitute a very material item of the public debt of Texas, for which certificates of stock for the five millions of dollars are withheld. A feature in contracts such as these, if made between individuals, would, under the laws of most civilized countries be void for usury. The creditor in some instances would lose not only the amount of the unlawful exaction, but likewise his debt. I do not desire or intend to suggest the adoption of so stringent a rule to contracts made by governments. The government should certainly pay to its creditors the full amount of the benefits re-

ceived, and interest on the amount from the time when it should have been paid. This is all that our creditors ought in justice to require, and it is all according to the highest standard of moral ethics that we are bound to accord to them.

I would also recommend, that a law be passed requiring all creditors holding claims against the late Republic of Texas, and for which the revenues arising from impost duties were specially pledged, to file releases in favor of the United States, in respect to said claims with the Comptroller of the State within a specified time, and in default thereof, their claims upon the United States for liability of said debts growing out of the transfer of the revenue under the articles of Annexation, shall be considered as waived. Measures of this sort, it occurs to me, are absolutely necessary for a settlement with the Treasury of the United States within any reasonable time of the amount which under the act referred to is to be retained as a security against these claims.

In what manner the State shall dispose of the five millions of dollars, for which certificates of stock will be issued and placed at its control as soon as notice is given of the acceptance of the propositions, presents a subject, it occurs to me, of too much importance to the future prosperity and advancement of the country, to be acted upon by the Honorable Legislature at its present session. It is one which will require much reflection and deliberation, not only on the part of the Representatives of the people, but the people themselves whose interests are to be so materially affected, should have an opportunity of bestowing upon it deep and matured thought, before a plan can be indicated which is most likely to secure to the State all the practical advantages to be derived from the acceptance of the propositions now before you. Up to the present period, the citizens of the country have had no means of forming or expressing their opinions in reference to it, and it occurs to me, that their Representatives who were not chosen with any view to act upon a question of so much importance, and who have had but little opportunity of acquiring a knowledge of their will in regard to it, will not be disposed to precipitate measures which might not meet the approbation of their constituents, and the delay of which can result in no injury to the State.

There is to be superadded to this, the consideration that the agitation of this subject at your present session will, from the great diversity of opinions no doubt existing in reference to it, elicit long and labored discussions, protracting the session and necessarily creating a heavy draft on the Treasury already in a

feeble and exhausted state. Though secondary in importance, this objection is not without its force and validity, for the disturbing incidents of the last year have made our State prolific in Legislative bodies, causing a heavy drain upon the Treasury; and it now becomes an important desideratum in our political economy to restrict the action of the one in order to curtail the exhausting drafts upon the other; besides the progressive and healthful condition of affairs of the State generally affords ample and satisfactory evidence that its prosperity is not likely to be materially retarded for want of legislative action.

By holding on to the stock for the present, the interest accruing from it would be more than sufficient to meet the immediate and pressing demands upon the Government and the members of another Legislature would assemble better prepared after the subject has been discussed throughout the country to make such ultimate disposition of the amount referred to, as would be most conducive to the public weal.

I have therefore no recommendation to make to your honorable body other than that the disposition of the funds be postponed for the action of a future Legislature.

In adopting these suggestions, my mind has been directed chiefly to measures promotive of the general good, without for a moment losing sight of the wishes and interest of our creditors. In disposing of the five millions of stock, the delay which I have proposed is not with a view to disparage any just or equitable claim. An honest payment of the public debt and a rigid preservation of the public faith embraces in my humble judgment a principle too sacred ever to be disregarded, certainly ever to be abandoned, by those intrusted with the faith, integrity and stability of our State government: but individual interest must, under the circumstances, yield to the public weal. An important portion of the public debt yet remains to be ascertained, and by existing laws the creditors are allowed until September next to file their claims with the Auditor and Comptroller for adjustment. These claims, (if immediate action be taken,) the Legislature cannot be properly prepared for; when by the delay proposed until the meeting of the Legislature at its regular session, the entire public debt will have been ascertained, and legislative action can then be based upon a thorough knowledge of the subject.

Within the last year, gentlemen, you have been thrice assembled, and upwards of four months within that period have been employed by you in legislative action, subjecting you to much personal inconvenience and trouble, and the State to an expenditure which she is badly prepared to meet, and you will, I am sure,

pardon me for suggesting that neither the public interest demands nor will the constitution nor the general sentiment of the country sanction that your labors at the seat of government be prolonged at this time beyond a very reasonable period after you shall have completed the work for which you have been specially assembled; and in this view the Executive does not desire to engage the attention of your Honorable Body with any subject disconnected with the grave and important question upon which you are now called to act.

I invoke for your Honorable Body in conducting the public councils, a spirit of kindness, courtesy, and conciliation, commensurate with your high position and the sacred trust confided to you; and I sincerely hope that the result of your labors may by the decision of after times prove to have been for the happiness and prosperity of our State, and that you may return to the bosom of your constituents with the inward approbation of having faithfully discharged your duties to the State, and receive from them the highest tribute awarded to public servants,—the warm greetings and plaudits of their fellow-citizens.

P. H. BELL.

The reading of the communication having been concluded, the honorable Senate returned to their chamber.

Mr. Williams introduced the following resolution, which was adopted :

Resolved, That so much of the Governor's message as refers to the proposition made by the United States, for the purchase of a part of our Northwestern territory, be referred to a select committee, with instructions to report at as early a day as may be practicable, and that the Senate be requested to appoint a similar committee to act in conjunction with the same.

The Speaker appointed on the part of the House, Messrs. Williams, Runnels, McKinney, Stapp, Stewart and Polk to compose said committee.

Mr. Runnels introduced the following resolution :

Resolved, That the House of Representatives will entertain no other business during its present extra session, than that specially recommended by His Excellency the Governor, or subjects directly connected therewith, without the consent of four-fifths of the members thereof.

The rules of the House requiring that the resolution should lie on the table one day for consideration, Mr. Dickson moved a suspension of the rule.

Upon which the yeas and nays were called, and stood as follows :

Yeas—Messrs. Speaker, Charlton, Dickson, Hardeman of Nacogdoches, Hardeman of Travis, Johnson, Jowers, McKinney, Owen, Polk, Reynolds, Runnels, Scott, Selman, Shaw, Smith of Shelby, Speights, Sterne, Stewart, Taylor of Cass, Williams and Wren—22.

Nays—Messrs. Bogart, Bryan, Burney, Clements, Cochran, Crump, Fields, Hendricks, Lewis, Lloyd, Lott, Patrick, Russell, Shea, Stapp, Tarrant, Taylor of Harrison, and Wigfall—18.

So the motion to suspend the rule was lost.

Mr. Taylor of Cass moved that the committee on Public Printing be instructed to contract for the printing of 2,000 copies of the Governor's message in the English, and 500 copies in the Spanish language; lost.

Mr. Runnels moved that the committee be authorized to contract for 1,000 copies in the English, 300 in the Spanish and 200 in the German languages; which motion was adopted.

Mr. Wren offered the following resolution, which, on motion of Mr. Dickson, was laid on the table for the present :

Resolved by the House of Representatives, the Senate concurring, That the two Houses will meet in joint session in the Hall of the House of Representatives on Wednesday the 20th inst., at 11 o'clock A. M., for the purpose of counting the votes on the acceptance and rejection of the proposition made by the General Government of the United States to the State of Texas, for the purchase of a portion of the Northwestern territory of this State.

On motion of Mr. Scott, the Chief Clerk was directed to furnish Mr. Russell with a copy of the Governor's message, to be transmitted to Mr. Martell, for translation into the German language.

On motion of Mr. Bryan, that portion of the Governor's message not already referred to the Select committee, was referred to the committee on State Affairs.

On motion of Mr. Hardeman of Travis, the House adjourned until 3 o'clock, P. M.

3 O'CLOCK, P. M.

House met pursuant to adjournment—roll called—quorum present.

Mr. Russell, by leave, introduced a bill to incorporate Fayette Academy, in the county of Fayette; read first time.

Mr. Russell moved to suspend the rule, in order to place the bill upon its second reading.

Mr. Scott moved to lay the bill upon the table until the 4th day of July next.

Upon which motion the yeas and nays were called, and stood as follows:

Yeas—Messrs. Speaker, Charlton, Dickson, Hardeman of Nacogdoches, Hardeman of Travis, Holland, Johnson, Jowers, Polk, Runnels, Scott, Selman, Shaw, Shepard, Speights, Stewart, Taylor of Cass, and Williams—18.

Nays—Messrs. Bogart, Bryan, Burney, Clements, Cochran, Hendricks, Lloyd, Lott, McKinney, Owen, Patrick, Russell, Shea, Smith of Red River, Smith of Shelby, Stapp, Tarrant, Taylor of Harrison, Wigfall and Wren—20.

So the House refused to postpone the bill.

The question then recurring upon the motion of Mr. Russell to suspend the rule, was put and lost.

Mr. Taylor of Cass moved to take up from the unfinished business of the last extra session of the Legislature, a bill to be entitled an act to amend an act to organize the Supreme Court of the State of Texas.

The Speaker decided the motion out of order.

Mr. Taylor of Cass then appealed from the decision of the chair.

Upon which appeal the yeas and nays were called, and stood as follows:

Yeas—Messrs. Bogart, Bryan, Burney, Clements, Cochran, Dickson, Hardeman of Travis, Holland, Lloyd, Lott, McKinney, Owen, Polk, Runnels, Selman, Shepard, Smith of Red River, Speights, Stapp, Stewart, Taylor of Harrison, Wigfall and Williams—23.

Nays—Messrs. Charlton, Hardeman of Nacogdoches, Hendricks, Johnson, Jowers, Patrick, Russell, Scott, Shaw, Shea, Smith of Shelby, Tarrant, Taylor of Cass and Wren—14.

So the House sustained the decision of the chair.

Mr. Shepard presented the credentials of the Hon. Zimri Hunt, member elect from the counties of Austin and Colorado, to fill the vacancy occasioned by the resignation of the Hon. Wm. E. Crump, who came forward, took the requisite oath of office and his seat.

On motion of Mr. Dickson, the House adjourned until half-past 9 o'clock to-morrow morning.